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Supreme Court of the United States

OCTOBER TERM, 1930.

No. 393.

GYNTHER STORAASLI,

Appellant,

vs.

STATE OF MINNESOTA,

Appellee.

STATEMENT SHOWING BASIS OF JURISDICTION AS REQUIRED BY RULE 12.

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To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Appellant, Gynther Storaasli, in support of the jurisdiction of this Court to review the above entitled cause on appeal respectfully represents and states to the Court:

This appeal is taken from the judgment entered in the Supreme Court of the State of Minnesota May 23rd, 1930, in favor of the State of Minnesota and against the Appellant, Gynther Storaasli.

(a). Statutory Provision sustaining the Jurisdiction of This Court.—This appeal is taken under Sections 861 (a), and 861 (b), of Title 28 of the United States Code, as amended

April 26th, 1928, and under Rule 46 of the Rules of this Court effective July 1, 1928. Under the practice previous to the amendments, Writs of Error would have been issued under Section 237 of the Judicial Code as amended, being Section 244, Title 28 of the United States Code.

(b). Dates of Judgment Sought To Be Reviewed And On Which Application For Appeal was Presented.—The decision of the Supreme Court of Minnesota was filed April 25th, 1930, (R. page 16-20). ** Application for rehearing was filed on May 12, 1930 (R. page 21-25). This application was denied May 23rd, 1930 (R. page 26). Judgment was entered in the Supreme Court of Minnesota May 23, 1930 (R. page 27).

The application for appeal therefrom was presented and the order allowing the appeal entered August 15, 1930 (R. page 28-29). The citation was issued and served on August 16th, 1930 (R. page 33)..

(c). Nature of Case and Rulings of The Minnesota Supreme Court.—The question presented by this appeal is whether the State of Minnesota can without violating the Constitution of the United States, notably the Fourteenth Article of Amendment thereof, impose a motor vehicle registration tax upon a privately owned motor vehicle kept on the Fort Snelling Military Reservation by an officer of the United States military forces stationed thereon.

The provisions for the imposition and the determination of the motor vehicle registration tax are found in Sections 2672 to 2704 inclusive, as amended by Chapter 335, Session Laws of Minnesota, 1929 (See appendix p. 19). These provisions

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NOTE:

**The record has not as yet been printed. All references herein to the record refer to the pages of the original record as prepared by the Clerk of the Minnesota Supreme Court.

were enacted by the Legislature of the State of Minnesota pursuant to an amendment of the Constitution of the State being Article 16, which provides for the establishment of a Trunk Highway system throughout the State. The pertinent portion of that Amendment in the consideration of this case is section 3, which provides as follows:

> "Taxation of motor vehicles—The legislature is hereby authorized to provide, by law, for the taxation of motor vehicles, using the public streets and highways of this state, on a more onerous basis than other personal property; provided, however, that any such tax on motor vehicles shall be in lieu of all other taxes thereon, except wheelage taxes, so-called, which may be imposed by any borough, city or village. Any such law may, in the discretion of the legislature, provide for the exemption from taxation of any motor vehicle owned by a non-resident of the state, and transiently or temporarily using the streets and highways of the state. The proceeds of such tax shall be paid in to said trunk highway sinking fund."

The Secretary of State, pursuant to Chapter 335 Laws of Minnesota, 1929 (See appendix p. 19), filed in the office of the Clerk of the District Court of Ramsey County a list of motor vehicles on which the tax and penalty for 1929 appeared delinquent. The Appellant's vehicle was included in this list. Within the proper time the Appellant filed his answer to the notice of the delinquent motor vehicle tax. The answer denied that any tax or penalty was due the State of Minnesota (R. pages 3-6).

It then alleged that at all times covered by said notice the defendant has been and now is the sole owner of the motor vehicle; that he now is and at all times covered by said notice was a non-resident of the State of Minnesota and a member of the military forces of the United States quartered and resident

upon the United States Military Reservation at Fort Snelling; that the motor vehicle of the defendant has not been operated for hire, nor has it been present within the jurisdiction of the State of Minnesota upon its roads, highways, or streets, for any period of ten days; that it is not now operated on the roads, highways or streets of the State except as a visitor for brief periods (R. pages 3-4).

It is then alleged that the Fort Snelling Military Reservation is and was a territory solely and exclusively under the control of the Government of the United States; that all governmental functions, including police power, traffic control and maintenance of highways, are vested in and exercised by the Commanding Officer of the Reservation under the laws of the United States to the total exclusion of the governmental control of the State; that the Reservation is not a part of the State of Minnesota (R. pages 4-5).

The answer further alleges that the Commanding Officer of the Reservation has created and maintained, in pursuance of the power vested in him, a complete system of automobile registration with rules and regulations, and that the motor vehicle which is the subject of this litigation has been duly and properly registered under such laws and regulations; that it has been provided with license plates and a registration certificate issued therefor (R. page 5).

The defendant also alleges that he is willing to comply with all the laws of the State of Minnesota applicable to non-residents whenever non-residents have occasion to use the roads and public streets, and has notified the proper officers of the State, through the Registrar of Motor Vehicles at the Reservation of his readiness to comply therewith; that he has at all times carried the proper plates issued to him, and has complied with all the traffic laws and regulations of the State when

he has operated the motor vehicle upon the highways of the State (R. pages 5-6).

Upon filing the answer, the plaintiff moved for judgment on the pleadings (R. page 7). The motion was granted (R. pages 9-10). Judgment was thereupon entered for the tax and penalty (R. p. 11). From this judgment Appellant appealed to the Supreme Court of Minnesota (R. page 12).

The Supreme Court affirmed the judgment of the District Court (R. pages 16-20). An application for rehearing was made by the Appellant (R. pages 21-25). This was denied May 23, 1930 (R. page 26). Judgment was entered the same date (R. page 27) from which the appeal to this Court was taken August 15, 1930. The judgment appealed from was final so far as the State Courts are concerned.

The Supreme Court in affirming the judgment of the District Court stated:

> "The license tax is both a property tax and a privilege tax * * * is a property tax in the same sense that it exempts the vehicle licensed from other taxation or property. It is in lieu of other taxes. But it is equally clear that it is a privilege tax. All motor vehicles, with the exception hereinafter noted, are prohibited from using the public highways until the tax is paid. It is a tax imposed for the privilege of using the public highways of the State and collected for the specific purpose of building and maintaining such highways. The elements of property tax and privilege tax are inseparable. * * * The character of a privilege tax extends to the whole tax. So does the character of a property tax. As a property tax it could not be imposed against visitors from other States whose automobiles have not a situs for taxation in this State. Yet it may be and is so imposed, except that visitors who, within ten days after entering the State or commencing to use the highways, register their automobile with the Secre-

tary of State showing that the car is properly registered and licensed under the laws of the Country or State of the owner, may use the highways of the State for a period of not more than ninety days without payment of the tax. It is so imposed on non-residents as a privilege tax" (R. pages 18-19).

The Court further held:

"It is stated, but not much argued, that if construed as claimed by plaintiff, the law is discriminatory and violates the equality provision of the Fourteenth Amendment. We see no objection to the law on that ground" (R. page 20).

Thus the Federal questions presented by the Assignments of Error in the appeal now before this Court, whether the motor vehicle registration tax law, insofar as the same is construed to apply to and impose a tax upon a privately owned automobile, kept on the Fort Snelling Military Reservation by an officer of the United States Military forces stationed thereon, and the authority exercised under said law, are invalid and deprive appellant of his rights under the Fourteenth Amendment were raised at the commencement of this proceeding, and were presented and passed on by the Supreme Court of Minnesota, and were determined adversely to the Constitutional rights claimed.

(a). Cases sustaining the Jurisdiction:

Surplus Trading Co. v. R. A. Cook, United States Adv. Opin. No. 14-626, dec. June 2, 1930.

Hendrick v. Maryland, 235 U. S. 610.

Kane v. New Jersey, 242 U. S. 160.

Farmers Loan & Trust Co. v. Minnesota, 280 U. S. 265.

In the case of *Surplus Trading Company v. Cook*, the court assumed jurisdiction on a Writ of Error to the State Court under the former procedure to determine whether a personal

property tax law as construed and applied by the highest court of the state is valid under the Constitution of the United States. In the cases of *Hendrick v. Maryland* and *Kane v. New Jersey* (supra) the Court has assumed jurisdiction on a writ of error to the State Court under the former procedure to determine whether a state motor vehicle registration law as construed and applied by the highest court of the state is valid under the Constitution of the United States ,and particularly the Fourteenth Amendment thereof.

In the case of *Farmers Loan & Trust Company v. Minnesota*, supra, the court has asumed jurisdiction on appeal under the new procedure to determine whether an inheritance tax law as construed and applied by the highest Court of the State is valid under the Constitution of the United States, and particularly the Fourteenth Amendment thereof. These cases are therefore authorities sustaining the jurisdiction of the Court in the present case. However, neither the *Hendrick v. Maryland*, NOR the *Kane v. New Jersey* case (supra) passed upon the exact question involved in this case. The appellant herein claims two definite discriminations. Under the Constitution of the State of Minnesota, appellant is a non-resident of Minnesota (Article VII., Sec. 4). The taxation of motor vehicles using the public streets and highways of the State of Minnesota is on a more onerous basis than other personal property (Article 16, see 3 supra).

Under the opinion filed by the Supreme Court of Minnesota, it was definitely held that the tax against the vehicle could be enforced as a tax on the privilege of using the roads of Minnesota. It is conceded in this case by the Supreme Court of Minnesota that it cannot be a property tax, so that as to your petitioner the whole tax is for the privilege. But as to residents of Minnesota owning cars within the State and who are subject

to general property taxation, this same payment pays a tax upon the cars as property "on a more onerous basis than other personal property," and also gives them the privilege of using the roads. By the enforcement of this tax to the full extent as against the resident of the Military Reservation, wholly as a privilege tax, the State of Minnesota singles out such residents and taxes them at a higher rate for the privilege of using the roads of the State of Minnesota than it does its own residents. This is one discrimination.

Residents of Iowa, the Dakotas or Wisconsin living near the boundary line may drive their cars in Minnesota every day, without paying any tax at all, provided only that their cars are not within the State for any continuous period of ninety days. But under this decision a resident of the Fort Snelling Reservation, who drives his car within the State *at all*, must pay the total tax. This is certainly a most important difference of treatment which appellant claims is discrimination.

The Court has recognized these distinctions. It said in *Hendrick v. Maryland*, supra, at page 621:

> "If the statute is otherwise valid, the alleged discrimination against residents of the District of Columbia is not adequate ground for us now to declare it altogether bad. At most they are entitled to equality of treatment, and in the absence of some definite and authoritative ruling by the courts of the State, we will not assume that upon a proper showing this will be denied."

In this case the Supreme Court of Minnesota has by authoritative ruling denied to appellant equality.

A careful reading of *Kane v. New Jersey*, supra, indicates a recognition of the distinction to be made in this case. In speaking of the reasonableness of the New Jersey law it stated that it put non-resident owners upon an equality with resident

owners. Under the decision of the Supreme Court of Minnesota appellant is not given that equality of treatment. He is not on an equality with residents of Iowa, the Dakotas or Wisconsin, nor is he on an equality with the residents of Minnesota.

Respectfully submitted,

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PIERCE BUTLER, JR.,
Attorneys for Appellant.

DOHERTY, RUMBLE, BUNN & BUTLER,
Counsel.

APPENDIX.

MOTOR VEHICLES.

Sec. 2674. Rate of tax—(a). Motor vehicles, except as set forth in Section 2 hereof, using the public streets or highways in the State of Minnesota shall be taxed in lieu of all other taxes thereon, except Wheelage taxes, so-called, which may be imposed by any borough, city or village, as provided by law, and shall be privileged to use the public streets and highways, on the basis and at the rates for each calendar year as follows:

Motor vehicles for carrying passengers and hearses, 2 4/10% of value.

Provided that the minimum tax on all passenger motor vehicles under 2,000 pounds weight except as hereinafter provided shall be $10.00 and the minimum tax on all passenger motor vehicles 2,000 pounds and over in weight shall be $12.50.

* * * * *

Value until the end of the first calendar year of vehicle life, construing the year of the model designation as the first year of such life shall be construed to mean the "base price for taxation" as hereinafter defined.

For the purpose of fixing a base price for taxation from which depreciation in value at a fixed per centum per annum can be computed, such price is defined as follows:

The base price for taxation of a motor vehicle of which a similar or corresponding model, as defined in Section 21 of this act, was being manufactured on November 1st, preceding the year for which the tax is levied, shall be the manufacturers' list price of such similar or corresponding model in effect on such November 1st. The base price for taxation of a motor vehicle of which no such similar or corresponding model was

manufactured until after such November 1st shall be the manufacturers' list price at the factory when the vehicle taxed was first manufactured. The base price for taxation of a motor vehicle of which no such similar or corresponding model has been manufactured since a time prior to such November 1st shall be the price fixed by the registrar as a reasonable manufacturers' list price at the factory on such November 1st if such vehicle has been then manufactured at prevailing costs.

Value during each succeeding year of vehicle life shall be construed to mean such base price for taxation, less ten per cent for the second year, less twenty per cent for the third year, less thirty per cent for the fourth year, less forty per cent for the fifth year, less fifty per cent for the sixth year, less sixty per cent for the seventh year, and less seventy per cent for the eighth and each subsequent year.

When a motor vehicle shall become first subject to taxation between July 31st, and October 1st, the tax for the remainder of the calendar year shall be one-half the tax for a whole year.

When a motor vehicle shall become first subject to taxation after September 30th and on or before December 31st, the tax for the remainder of the calendar year shall be one-fourth the tax for a whole year.

* * * * *

(c) The owner of every motor vehicle, not exempted by section 2, or 14, shall so long as it is subject to taxation within the state, list and register the same and pay the tax herein provided annually, provided, however, that any dealer in motor vehicles to whom dealer's plates shall have been issued as herein provided, shall, upon due application on the date set for the annual renewal of registration and payment of tax, be entitled to withhold the tax upon any motor vehicle held by him solely for the purpose of sale or demonstrating or both and upon

which the tax as a user of the public highways, shall become due, until the motor vehicle shall be sold or let for hire to a person not such a dealer, or until used upon the public highways, but no longer than until October 1st, following, when the whole tax shall become immediately payable with all arrears.

* * * * *

(e) The proceeds of the tax imposed on motor vehicles under this act shall be collected by the registrar of motor vehicles and paid into the state treasury and credited to the Trunk Highway Sinking Fund.

* * * * *

Sec. 2675. Motor vehicles to be registered—Operation without registration prohibited—Purchasers of new vehicles—No motor vehicle, except as is exempted by Section 2 of this act, shall use or be operated upon the public streets or highways of the State of Minnesota in any calendar year until it shall have been registered as hereinafter required, and the motor vehicle tax and fees herein provided shall have been duly paid and the "number plates" issued therefor shall be duly displayed on such vehicle. No motor vehicle, except as provided by Section 2 of this act, which shall for any reason not be subject to taxation as herein provided shall use or be operated upon the public streets or highways of this state until it shall have been duly registered as herein provided, and shall duly display number plates as required by the provisions of this act, except that the purchaser of a new motor vehicle may operate his motor vehicle without plates, provided that:

* * * * *

Sec. 2676. Owner shall list—(a) Every owner of any motor vehicle in this state, not exempted by Section 2 or Section 14 hereof, shall on or before February 15th, in each calendar year and in any event as soon after January 1st as he shall

become the owner thereof, file with the registrar on a blank provided by him, a listing for taxation and application for the registration of such vehicles, stating the name and address of the owner, and the nature of his ownership, the name and address of the person from whom purchased, name of manufacturer, name of motor-vehicle, year manufactured, year and number of the model, engine and car number, type of body, the list price thereof at the factory, the weight of the vehicle in pounds, and its rated load carrying capacity or seating capacity, the number of cylinders, and such other informations as the registrar may require. The said owner shall make an oath or affirmation before some officer authorized by law to administer oaths or affirmations that the statements made are correct and true; and any false statement wilfully and knowingly made in regard thereto shall be deemed perjury and punished accordingly; provided, however, that such listing for taxation and application for registration need not be sworn to when the applicant is listing the same vehicle for taxation and registration for the second or any succeeding time. The listing and application for registration by dealers or manufacturers' agents within the state, of motor vehicles received for sale or use within the state shall be accepted as compliance with the requirements of this act imposed upon the manufacturer.

* * * * *

Sec. 2684. Passenger motor vehicles from other states—Use of streets and highways for three months—Registration—Certificates—Display—Penalty for non-registration—Other penalties—Passenger motor vehicles not employed for hire within the state, owned by non-residents and which have been properly registered or licensed under laws of the country or state of the owner, and which carry license number plates according to the laws of such state, and which are accompanied by the

registration certificate (if any) used therefor by such state, in the possession of the owner or his agent, may use the public streets and highways of this state for a period no longer than three months in any calendar year without further tax; provided, however, that a non-resident owner of a motor vehicle so registered in such other country or state shall, not later than ten days after commencing to operate said vehicle, or to cause or permit the same to be operated, on any public highway within this state, apply to the registrar for registration of such vehicle; and shall state in addition to such other matters as may be required by the registrar, the name and postoffice and residence address of the applicant, together with the registration number of said vehicle in the country or state in which the same shall be registered. Upon receipt of said application, the registrar, if satisfied of the facts stated therein, shall, without charge to the applicant, register said motor vehicle and furnish to the applicant a non-resident's registration certificate, indicating that the holder thereof has complied with the requirements of this act.

Such certificate shall contain the name and address of the owner, a description of the vehicle by name and distinguishing numbers, the date of registration and of expiration, with such other appropriate matter as the registrar may insert therein, and during operation of such vehicle upon Minnesota highways shall be conspicuously displayed upon the windshield of the vehicle.

If the non-resident owner delays for more than ten days to make application for such non-resident's registration certificate, a penalty shall accrue at the rate of $1.00 per month or fraction thereof for such delay and the registrar shall not issue a certificate until such penalty is paid.

Such certificate shall expire when such vehicle passes into the ownership of a resident of the state, and in any event, after three months from the date when such vehicle was first brought into the state, or when the owner thereof, becomes a resident of the state.

A passenger motor vehicle not employed for hire and owned by a non-resident on the first day that it is in the state, after a period of three months has elapsed since it was first brought into the state, shall become subject to the same provisions of law governing registration and payment of tax and penalty as apply to such a motor vehicle owned by a resident of the state, and if no non-resident's registration certificate shall have been procured as provided by this act, the penalty provided for delay in securing such certificate shall also be paid before registration can be made.

Any person who shall use such certificate displayed upon a motor vehicle other than the one described therein while in use on Minnesota highways, or on any motor vehicle on Minnesota highways after the time limited therein has expired, shall be guilty of a misdemeanor.

Sec. 2684-1. Reciprocal rights and privileges of motor vehicles from adjoining states and Canadian provinces—Conditions and limitations—Any citizen of an adjoining state or an adjoining Canadian province, who owns and is duly licensed under the laws of his own state or country to operate a motor vehicle upon the highways thereof, may also operate such motor vehicle personally or by his authorized driver upon the streets and highways of townships, boroughs, villages and cities in this state, subject to the following conditions and limitations:

First. Upon condition that any citizen of this state, who owns and is fully licensed under the laws of this state to oper-

ate a motor vehicle upon the highways thereof, shall also be privileged to operate such motor vehicle tax free upon the streets and highways of such adjoining state or Canadian province under conditions substantially as favorable to any such Minnesota citizen as the conditions herein specified for the operation in this state of the motor vehicle of any similarly situated citizen and resident of such adjoining state or Canadian province.

Second. Upon condition that any such motor vehicle so operated in this state by any such nonresident at all times shall carry and display all license number plates or like insignia required by the laws of the home state or country of said non-resident.

Third. Upon condition that such non-resident motor vehicle owner shall first file with the registrar of motor vehicles in this state an instrument in writing, subscribed by him and duly acknowledged before a notary public or other officer with like authority, setting forth the name and address of the owner and of each person having any interest in such motor vehicle, the name and address of the person from whom such motor vehicle was purchased or acquired, the name of the manufacturer and of the motor vehicle if it has a name, the year when manufactured, the serial number or other number and model identifying such motor vehicle, the weight in pounds of such motor vehicle, and the number of cylinders of the motor engine. Said written instrument shall also contain substantially the following:

"The undersigned owner of the above described motor vehicle hereby consents and agrees that the use and operation of said motor vehicle inside the state of Minnesota shall always be subject to all the laws, ordinances, rules and regulations applicable to like operation thereof by a citizen and resident

of the state of Minnesota except as it may be expressly provided otherwise by the laws of Minnesota. The undersigned owner hereby consents to be sued or otherwise proceeded against, either civilly or criminally, at any place in Minnesota where the above described motor vehicle is operated, upon any claim or cause of action arising from such operation, in the same manner as a Minnesota citizen and resident owner and operator of a like motor vehicle might be sued or proceeded against in like circumstances. And in any such civil proceeding, legal process and other notices or papers may be served upon the undersigned owner of the above described motor vehicle by depositing a copy thereof in the United States mails, properly enveloped, sealed, postage prepaid, and addressed to the undersigned owner at his above stated address or at such other address as he may have later filed in writing supplementary to this agreement. Such service shall be deemed personal service, and shall have the same force and effect as like process or notice served personally upon a motor vehicle owner residing in and being a citizen of the state of Minnesota."

Sec. 2684-2. Same—Certificates issued to such vehicles—Fee for seizure of vehicles operating without certificates—Vehicles not included—As soon as any non-resident motor vehicle owner entitled to the privileges herein extended, shall have complied with the provisions hereof, the registrar of motor vehicles shall issue to him a certificate stating that he is entitled to operate such motor vehicle within this state for and during such time as he continues to own such motor vehicle with license to operate the same in his own state or country; but subject, nevertheless, to suspension, revocation, or cancellation for any cause that would justify similar action with respect to any motor vehicle license or registration issued

to any citizen or resident of this state. For each such certificate the registrar of motor vehicles shall charge one dollar, which shall be paid into the state treasury and credited to the general revenue fund. Within ten days from the date when any change shall have been made in the ownership, or foreign license or number plates, of any motor vehicle operating in this state under a certificate as above provided, said certificate shall be surrendered to the registrar of motor vehicles, and such change shall be noted thereon, or a new certificate issued under the same conditions as the original, and a like charge of one dollar shall be collected in either case. Such certificates shall be prima facie evidence that the motor vehicle described may be lawfully operated in this state.

Any foreign motor vehicle operating at any time without such certificate shall be subject to seizure and the driver thereof to arrest by any law enforcing officer of this state; and upon conviction of such driver for operating in this state without licen e such motor vehicle may be sold in the same manner as on execution sale for debt and the proceeds may be applied to satisfy any penalty or fine imposed and to pay any costs or expens s incurred in connection with such arrest, seizure and sale. But this provision shall not apply to any foreign motor vehicle operated for a limited time in this state under Section 13 of Chapter 461, Laws 1921 (as amended by Chapter 418, Laws 1923, as amended by Chapter 299, Laws 1925) or any similar provisions of law hereafter enacted.

Sec. 2687. All machines must be registered—Exceptions—Every motor vehicle (except those exempted in Section 2 of this act) shall be deemed to be one using the public streets and highways and hence as such subject to taxation under this act if such motor vehicle has since April 23, 1921, used such

public streets or highways, or shall actually use them, or if it shall come into the possession of an owner other than as a manufacturer, dealer, warehouseman, mortgagee or pledgee.

* * * * *

Chapter 335—Session Laws Minnesota, 1929.

Sec. 1. Registrar to file statement of delinquents with clerk of court—Section 2691, General States 1923, is hereby amended so as to read as follows:

"2691. As soon as practicable after the first day of April in each year, the registrar shall prepare a list containing the names of owners of motor vehicles previously registered and upon which the tax for the current year has not been paid and concerning which there is not satisfactory report explaining such non-payment, and demand payment from each by letter. When deemed necessary, and for the purpose of obtaining more complete information concerning the probable success of enforcement proceedings as to those who do not respond to such notice, the registrar may assign to one or more employees in the motor vehicle department the duty of personal investigation in such counties in which the information at hand is not sufficient to enable him to determine whether payment of the tax due from any owner named in the list can be enforced, and the reasonable traveling expenses of these investigators shall be paid as department maintenance.

The preliminary investigation and reports herein prescribed are intended to enable the registrar to exclude from the delinquent list to be prepared and presented in accordance with the next succeeding paragraph the names of owners who cannot be found or whose vehicles are stolen, destroyed by the elements, or dismantled before the first day of the current year and to include therein only the names of delinquents from whom payment can probably be enforced.

Failure to comply with any of these provisions shall not affect the validity of the tax or the means of enforcement, nor shall the tax on any vehicle omitted from the delinquent list according to the provisions of this section be waived or the enforcement thereof impaired if at a later date application is made for re-registration and it is discovered that taxes are due in arrears.

The registrar on the second Monday in July next after any tax herein provided for shall become delinquent and on or before the tenth secular day of each subsequent month of the year shall certify to and file with the clerk of the district court of the proper county, a statement of delinquent taxes imposed under the provisions of this act, and not excluded therefrom as uncollectible, and such certified statement so filed shall be prima facie evidence of the correctness of the tax or taxes therein stated to be delinquent. Immediately upon receipt of this list the clerk shall mail written notice to each owner whose name appears therein, in form to be prescribed by the registrar, stating in substance that the list has been filed and that, as indicated thereon, there is imposed against him a tax in the amount stated due from such addressed owner and demanding immediate payment thereof. On or before the tenth secular day next after the filing of this list, any owner whose name is included in such certified statement may file with the clerk of said court an answer verified as pleadings in civil actions, setting forth his defense or objections to the tax or penalty against him.

The notice herein required to be mailed by the clerk to the respective owners is intended as an aid to securing payment of the motor vehicle tax and failure to send such notice or the failure of the registered owner to receive it shall not affect the tax or impair proceedings for its enforcement. On the

reverse side of the clerk's notice shall be a blank form of answer which the owner may make and return to the clerk stating any defense he may have to proceedings for the enforcement of the payment of the tax indicated therein, but if this blank form does not fully provide for the conditions of any particular case the answer need not follow the form, but shall clearly refer to the tax or penalty intended to be contested, and shall set forth in concise language the facts constituting the defense or objection of the owner to such tax or penalty.

The clerk shall submit to the county attorney the answers received with such particular information affecting each case as he shall have received in response to his notice or otherwise, and the county attorney therefrom and from such other information as the clerk shall submit therewith, and from such information as he may otherwise obtain, shall report in writing by mail to the registrar the names of owners on the delinquent list filed with the clerk from whom, in his judgment, payment of the indicated mofor vehicle tax cannot be collected. Upon receipt of such report the registrar may strike from the delinquent list the names of all persons against whom, in his judgment based upon the information he has at hand, payment of the indicated tax cannot be enforced, and shall report such eliminated names to the clerk, who shall also strike them from the delinquent list on file in his office and dismiss the proceedings against the owner whose name is thus eliminated. In all other cases the issues raised by such answer shall stand for trial at any term of the court in such county in session when the time to file answer shall expire, or at the next general or special term appointed to be held in such county; and, if no such term be appointed to be held within thirty days thereafter, then the same shall be brought to trial at any gen-

eral term appointed to be held within the judicial district, upon ten days' notice. The county attorney of the county within which such taxpayer resides shall prosecute the same. At the term at which such proceedings come on for trial they shall take precedence over all other business before the court. The court shall without delay and summarily hear and determine the objections or defense made by the answers and at the same term direct judgment accordingly, and in the trial shall disregard all technicalities and matters of form not affecting the substantial merits. If the taxes and penalties shall be sustained, the judgment shall include costs.